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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,507	02/07/2002	Peter Ottersbach	2155550USXPCT	6651

22850 7590 07/30/2003

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER

BISSETT, MELANIE D

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 07/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/926,507	<b>Applicant(s)</b> OTTERSBACK ET AL.	
	<b>Examiner</b> Melanie D. Bissett	<b>Art Unit</b> 1711	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 and 11-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 11-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) <u>0202</u>              | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>0702</u> | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Specification***

1. The abstract of the disclosure is objected to because the abstract should contain no more than one paragraph. Correction is required. See MPEP § 608.01(b).

### ***Information Disclosure Statement***

2. The cited related cases have been considered as far as availability has allowed; however, the lists of related cases have been stricken from the PTO-1449, since the applications are not published documents. This has been done to avoid confusion upon printing the present application.

### ***Summary of the Claims***

3. Claim 1 is drawn to a process for preparing an antimicrobial polymer comprising polymerizing at least one aliphatically unsaturated monomer having a secondary amino group functionality. Claim 2 limits the monomer to a specific formula having substituted or unsubstituted hydrocarbon radicals. Claims 3-4 limit the polymerization step to be carried out on a substrate, claims 5-6 limit the substrate to an activated substrate, and claims 11-13 are drawn to different articles using the coating prepared by the process of claim 1. Claim 14 is drawn to a coating prepared by the process of claim 1.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

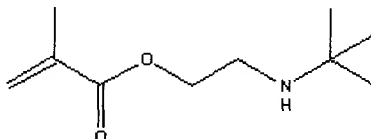
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-6 and 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Hüls Aktiengesellschaft. The examiner refers to Ottersbach et al. as the English equivalent of the European reference. Ottersbach et al. (US 5,967,714 A) can be found on the applicant's form PTO-1449.

6. Ottersbach discloses antimicrobial surface coatings comprising tert-butylaminoethyl methacrylate and another aliphatically unsaturated monomer. The coatings are graft polymerized on an apparatus or article (abstract). Note that tert-butylaminoethyl methacrylate has the structure:



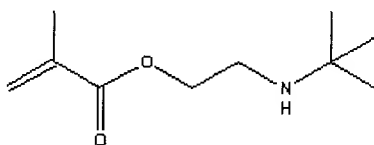
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having a secondary amino group in the backbone structure. Ottersbach teaches aliphatically unsaturated monomers fitting the applicant's formula of claim 2 (col. 2 line 54-col. 3 line 11). The substrates may be activated by UV radiation or UV radiation and a photosensitizer before the coating is applied (col. 3 lines 37-56). The reference suggests that medical or hygiene articles may be formed by grafting the antimicrobial coating on a substrate (col. 5 lines 4-7).

7. Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

8. Claims 1-6 and 11-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Ottersbach et al.

9. Ottersbach discloses antimicrobial surface coatings comprising tert-butylaminoethyl methacrylate and another aliphatically unsaturated monomer. The coatings are graft polymerized on an apparatus or article (abstract). Note that tert-butylaminoethyl methacrylate has the structure:



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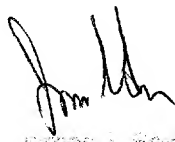
10. having a secondary amino group in the backbone structure. Ottersbach teaches aliphatically unsaturated monomers fitting the applicant's formula of claim 2 (col. 2 line 54-col. 3 line 11). The substrates may be activated by UV radiation or UV radiation and a photosensitizer before the coating is applied (col. 3 lines 37-56). The reference suggests that medical or hygiene articles may be formed by grafting the antimicrobial coating on a substrate (col. 5 lines 4-7).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie D. Bissett whose telephone number is (703) 308-6539. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on (703) 308-2462. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

mdb  
July 25, 2003



James C. Seidleck  
Supervisory Patent Examiner  
Technology Center 1700